



CITY OF WINCHESTER, VIRGINIA

Rouss City Hall
15 North Cameron Street
Winchester, Virginia 22601
www.winchesterva.gov

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BOARD OF ZONING APPEALS AGENDA

Wednesday, April 8, 2015 - 4:00 P.M.
Council Chambers - Rouss City Hall

1. POINTS OF ORDER

- A. Roll Call
- B. Approval of Minutes - November 12, 2014
- C. Reading of Correspondence

2. PUBLIC HEARINGS

BZA-15-145 Request of Saint Marina Coptic Orthodox Church for a variance pertaining to enlargement of non-conforming structures pursuant to Section 17-2-2 of the Winchester Zoning Ordinance for the property located at 1905 Henry Avenue (*Map Number 231-04-N-9 - > <01*), zoned Medium Density Residential (MR) district. The applicant is seeking to remove a restriction from a previous variance that limits the use of the building to a Montessori school.

BZA-15-150 Request of Milam Landscapes, LLC, for variances pertaining to minimum lot area, minimum lot width, and fence regulations pursuant to Sections 10-3-1, 10-4-1, and 18-9-2.8 of the Winchester Zoning Ordinance for the property at 607 N Cameron Street (*Map Number 154-01-A-2 - > <01*) zoned Commercial Industrial (CM-1) district. The applicant is proposing to use the property for contractor and landscaping storage.

3. NEW BUSINESS

4. OLD BUSINESS

5. ADJOURN

**BOARD OF ZONING APPEALS
MINUTES**

The Winchester Board of Zoning Appeals held its regular meeting on Wednesday, November 12, 2014, at 4:00 p.m. in Council Chambers, Rouss City Hall, 15 N. Cameron Street, Winchester, Virginia.

POINTS OF ORDER:

PRESENT: Acting Chairman Pifer, Mr. Crawford, Ms. Marchant, Ms. Anderson
ABSENT: Mr. Lewis
STAFF: Aaron Grisdale, Catherine Clayton
VISITORS: James Boyd, Shafqat Malik, Don Crigler

Acting Chairman Pifer advised that Ms. Anderson will be a voting member in lieu of a full complement of regular Board members.

ELECTION OF OFFICERS:

Mr. Grisdale called for nominations for Chairman. Mr. Crawford nominated Mr. Pifer. Ms. Marchant seconded the nomination. Voice vote was taken and the motion passed 3-0-1 Abstention (Pifer).

Mr. Grisdale then called for nominations for Vice Chairman. Ms. Marchant nominated Mr. Crawford. Mr. Pifer seconded the nomination. Voice vote was taken and the motion passed 3-0-1 Abstention (Crawford).

CONSENT AGENDA:

Approval of Minutes of October 8, 2014.

Chairman Pifer called for corrections or additions to the minutes. Hearing none, he called for a motion. Ms. Marchant moved to approve the minutes as submitted. Mr. Crawford seconded the motion. Voice vote was taken and the motion passed 4-0.

READING OF CORRESPONDENCE:

None.

PUBLIC HEARINGS:

BZA-14-662 Request of James Boyd, property owner, for a variance pertaining to a yard encroachment for an unenclosed deck pursuant to Section 18-9-2.1 of the Winchester Zoning Ordinance for the property located at 434 Handley Avenue (Map Number 192-01-F-14 - > <01), zoned Medium Density Residential (MR) District. The applicant seeks relief of the permitted yard encroachment limitation in order to construct a deck higher than three (3) feet above the ground in a required side yard.

Mr. Grisdale presented the staff report stating that this is a request for a variance pertaining to a yard encroachment for an unenclosed deck. The applicant seeks to construct a deck higher than three (3) feet above the ground in a required side yard to the rear of the property. In order for the applicant to

have access to the deck from the main level of the house, the applicant is proposing to have access along the walkway along the north side of the house. At the point where the walkway meets the deck, the proposed deck will exceed the allowable 3-feet in height for porches and decks that encroach into a required side yard. The required side yard is typically six feet; however, this house is nonconforming at 4.8-feet and as such, a deck is permitted to be constructed in line with the main structure. There are two (2) factors that the applicant needs relief of: the height limitation of 3-feet for decks that encroach into a required side yard setback, and the permissible encroachment distance of 3-feet into the required side yard. Per the drawings submitted by the applicant, the deck is proposed at a setback of 20.5 inches or 1.7 feet.

Mr. Grisdale stated that the applicant has had several conversations with staff to develop an application that is in less conflict with the code and this current request does appear to be fairly minimal in scope and requirements of deviation from the Zoning Ordinance provisions. However, there are still questions that exist as to whether the residential remodeling could be altered to allow for a door from the kitchen directly onto the deck, therefore eliminating the need to include the landing in the required side yard. Staff has received no letters of support or opposition to this application. He closed by stating that he is available for questions.

Chairman Pifer called for questions from the Board.

Chairman Pifer Opened the Public Hearing

James Boyd, applicant, was sworn in by Mr. Crawford. Mr. Boyd stated that Mr. Grisdale gave a good description of the project. He then gave an explanation of the stairs and brick wall and stated that he intends to remove the brick wall and put up some minimal screening along there like lattice or vegetation. He added that the only access they currently have to their back yard is to walk out in to the alley and then enter their yard or to go through their basement. He concluded by stating that he is available for questions.

Mr. Crawford asked Mr. Boyd if there are two kitchens in the house to which Mr. Boyd responded yes there are because there was an in-law addition to the house. Mr. Crawford then asked what, if any, objection Mr. Boyd would have to taking a door from what is the applicant's kitchen on to the deck as opposed to coming around. Mr. Boyd said that his challenge right now is that they want to make as minimal a disruption to the house and that would require tearing out the door there and they would have to go back to the architect to determine what is the best space and if it would be efficient to have two (2) doors.

Shafqat Malik, neighbor, was sworn in by Mr. Crawford. Mr. Malik said that Mr. Boyd told him that they were going to do some renovations but he has not seen any plans so he does not know exactly what work is going to be done. He then stated that he does know that Mr. Boyd intends to build a deck that will be visible from his property and that he is concerned about the height and how much protection he will have in his own backyard. Mr. Crawford showed Mr. Boyd's plans to Mr. Malik. Mr. Malik said that he has no objection to the plan but that he wants to know what type of screening Mr. Boyd is going to put in.

Chairman Pifer Closed the Public Hearing

Chairman Pifer called for discussion from the Board.

Mr. Crawford asked Mr. Boyd if he has thought about screening to close off the sight lines from the neighbor's property. Mr. Boyd responded that he has thought about it and that he has no problem removing some of the mass from the five foot wall and six foot fence and softening it up with some lattice work or vegetation because he said that they want privacy for everyone. Mr. Crawford then asked Mr. Malik if this is a good solution for him. Mr. Malik said that it will be with the screening.

Hearing no further questions or discussion from the Board, Chairman Pifer called for a motion.

Ms. Marchant moved to grant a variance pertaining to a yard encroachment for an unenclosed deck pursuant to Section 18-9-2.1 of the Winchester Zoning Ordinance for the property located at 434 Handley Avenue (Map Number 192-01-F-14) zoned Medium Density Residential (MR) District, with the following conditions:

- 1. The variance is to allow for a deck exceeding three feet above the ground to encroach to within 1.7 feet of the northern side yard.*
- 2. The variance only pertains to the general plans included within the proposal;*
- 3. The construction of the dwellings to be completed within two years of this date of approval;*

This variance is approved because:

- a. The strict application of this Ordinance would produce a clearly demonstrable hardship.*
- b. That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.*
- c. That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.*

Ms. Anderson seconded the motion. Roll call vote was taken and the motion passed 4-0.

NEW BUSINESS:

None.

OLD BUSINESS:

BZA-14-517 Request of DFC Architects, PC, on behalf of the property owner, Long Term Care Properties, LLC, for variances pertaining to an expanded use and structure in the 100 year floodplain pursuant to Sections 14.1-15-3C, D, E, and J and Section 14.1-15-6A of the Winchester Zoning Ordinance, for the property located at 380 Millwood Avenue (Map Number 233-01- -3 - > <01), zoned Medium Density Residential (MR) District with Floodplain (FP) District overlay. The applicant is requesting these variances to obtain relief from required flood proofing and building elevation requirements for a proposed building expansion.

Mr. Grisdale presented the revised staff report stating that the request has been modified from the original request as discussed during the October 8, 2014, public meeting and that the public hearing was opened and closed at that meeting so there is no need to reopen the public hearing. Since that time, the applicant and staff have worked to develop a more agreeable solution that allows for the expansion of the existing building to take place while meeting the intent of the floodplain requirements. The applicant has rescinded his request for the variances pertaining to Sections 14.1-15-3C, D, E, and J. The only remaining section associated with this request is Section 14.1-15-6A. As noted previously, the

parcel is improved with a nursing home and is considered a legal nonconforming use within the Medium Density Residential (MR) District. The project is designed to bring existing beds up to current standards for patient care, patient gathering space, and handicapped accessibility. Mr. Grisdale stated that the applicant has modified the proposal to a point that is more acceptable to staff. The request still involves the request of relief from the elevation requirement of the first floor elevation. However, the applicant has submitted plans and discussed with the Building Official efforts to fully flood-proof the proposed addition in conformance with the Uniform Statewide Building Code and FEMA requirements to one foot above the base flood elevation. The applicant has submitted ten bullet points that speak to the efforts being made to comply with the code. As a result of these modifications, staff has removed our denial recommendation from this project. Additionally, staff has received no letters of support or opposition to this application. He concluded by stating that he is available for questions.

Chairman Pifer called for questions from the Board.

Ms. Marchant asked Mr. Grisdale if staff had to re-advertise this application to which Mr. Grisdale responded that it did not have to be re-advertised because the public hearing was closed at the October 8, 2014, public hearing session. It is just a continuation of the case.

Chairman Pifer asked if Mr. Crigler, DFC Architects, would like to speak on behalf of the applicant.

Mr. Crigler was sworn in by Mr. Crawford. Mr. Crigler spoke about the site plan revision (giving each Board member a copy) whereby they removed the concrete ditch and are planning to go to a bio-retention swale. This is an additional thing that has been done as well as the flood-proofing.

Mr. Crawford asked Mr. Crigler to explain, for the record, the advantage of the bio-retention swale as opposed to the concrete ditch that exists there now. Mr. Crigler said that the concrete ditch just carries the water that dumps in to the floodway. The bio-retention swale will absorb water as it goes down so it will absorb more ground water and produce less runoff versus the originally proposed concrete ditch that was to be moved from its existing location. Chairman Pifer said that it is essentially a dry well to which Mr. Crigler responded yes it is, just longer. Mr. Crigler concluded by stating that he would be glad to answer any more questions concerning the revised application.

Chairman Pifer called for discussion from the Board.

Ms. Marchant said that she appreciates the changes that the applicant has made to address her concerns from the last meeting. She said that it shows good effort and better protection for the patients and the environment. Chairman Pifer and Mr. Crawford both stated that they agreed and said that the compromise is good.

Chairman Pifer called for a motion.

Mr. Crawford moved to grant a variance to DFC Architects, PC, on behalf of the property owner, Long Term Care Properties, LLC, for variances pertaining to an expanded use and structure in the 100 year floodplain pursuant to Section 14.1-15-6A of the Winchester Zoning Ordinance, for the property located at 380 Millwood Avenue (Map Number 233-01- -3 - > <01), zoned Medium Density Residential (MR) District with Floodplain (FP) District overlay, with the following conditions:

- a. *The issuance of this variance is approved only for the expansion as proposed within the application materials, including those materials that were presented to the Board today, November 12, 2014.*
- b. *The issuance of a variance to construct a structure below the one hundred (100)-year flood elevation (a) increases the risks to life and property and (b) will result in increased premium rates for flood insurance.*

This variance is approved because:

- a. *The strict application of this Ordinance would produce a clearly demonstrable hardship.*
- b. *That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.*
- c. *That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.*

Ms. Marchant seconded the motion. Roll call vote was taken and the motion passed 4-0.

OTHER DISCUSSION:

Mr. Grisdale asked the Board if they would be receptive to having a working retreat for all members to review the Zoning Ordinance, Roberts Rules of Order, and other topics as the Board may wish to address. All members were amiable and Mr. Grisdale stated that Cathy will get some information together for a date and time and then advise the Board.

ADJOURN:

With no further business before the Board, the meeting adjourned at 4:32 p.m.

**WINCHESTER BOARD OF ZONING APPEALS
STAFF REPORT AND RECOMMENDATION**

ISSUE/BACKGROUND

Case: BZA-15-145

Applicant: Saint Marina Coptic Orthodox Church

Location: 1905 Henry Avenue

Zoning: Medium Density (MR) District

Future Land Use: Church.

Legal Notice: The request for variance was advertised in the *Winchester Star* on March 25, 2015, and April 1, 2015. The property was required to be posted with a public hearing sign and notices were mailed to property owners within 300' of the subject property.

Applicant's Request: Request of Saint Marina Coptic Orthodox Church for a variance pertaining to enlargement of non-conforming structures pursuant to Section 17-2-2 of the Winchester Zoning Ordinance for the property located at 1905 Henry Avenue (Map Number 231-04-N-9 - > <01), zoned Medium Density Residential (MR) district. The applicant is seeking to remove a restriction from a previous variance that limits the use of the building to a Montessori school.

BACKGROUND

The subject property is located on the west side of Henry Avenue and is zoned Medium Density Residential (MR) district. The immediate properties on the west, north, and east are similarly zoned and primarily consist of single family dwellings. Property to the northeast is zoned conditional Residential Office (RO-1) consisting of a school. Properties to the southwest and southeast are zone Limited Industrial (M-1) and Commercial Industrial (CM-1), respectively, consisting of light industrial and commercial uses. (Exhibit B)



Exhibit A - Vicinity Map



Exhibit B - Vicinity Zoning Map

This parcel is currently improved with an approximately 2370 square foot structure. Originally the structure was used as a dance studio. Subsequently in May 1983 the Board of Zoning Appeals granted a variance to allow a change of a nonconforming use from the dance studio to a Montessori School. The BZA imposed a condition that the school provide one parking space per employee and that the variance would only allow operation of a Montessori School. Additionally in 1990, the BZA granted a variance to permit an expansion of the nonconforming structure, the use restriction of the property only being used as a Montessori School and the parking condition were not removed as part of the approval.

As noted above, the variances granted in the past limit the property to only being used as a Montessori School, which the applicant believes unreasonably restricts the use of the property. Within the applicant's submitted information, they plan to utilize the property as a church, which is a permitted by-right use pursuant to Section 4-1-4 of the Zoning Ordinance. However, in order to allow for this use, the BZA must remove the conditions associated with the previous variances. The proposed use will include a total of 60 members, children and guests. The church anticipates meeting twice a week for service for a total of 4 hours for each service. They plan to accommodate parking through two existing spaces on the parcel, and working out parking agreements with adjacent property owners.

STAFF ANALYSIS & CONCLUSION

According to Section 20-2 of the Ordinance, the Board of Zoning Appeals is required to make three (3) specific findings in order to approve a variance request. These findings are based on evidence, testimony, and demonstration of certain criteria, which are further defined in Section 20-2-3.1 of the Ordinance.

Section 20-2-3.1: When a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size, or shape of a specific piece of property at the time of the effective date of the Ordinance, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or of the use or development of property immediately adjacent thereto, the strict application of the terms of the Ordinance would effectively prohibit or unreasonably restrict the use of the property or where the Board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship, as distinguished from a special privilege or convenience sought by the

applicant, provided that all variances shall be in harmony with the intended spirit and purpose of the Ordinance.

1. That the strict application of this Ordinance would produce a clearly demonstrable hardship.
2. That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
3. That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variances.

Staff agrees with the applicant in that the current use restriction for the property is overly specific and does limit reasonable use of the property. The main concern from the staff perspective is ensuring that there are not detrimental impacts on the surrounding uses and properties, specifically traffic and parking. During pre-application discussions with staff, the applicant indicated that they plan to pursue off-street parking agreements with nearby property owners, as permitted in the Zoning Ordinance. If secured, this would ensure that possible parking impacts could be mitigated.

Note: Staff has received one letter of support to this application from the property owner, and the letter is included in your agenda packet.

POSSIBLE MOTION(S)

1. **MOVE**, that the Board of Zoning Appeals **approve** a variance to Saint Marina Coptic Orthodox Church for a variance pertaining to enlargement of non-conforming structures pursuant to Section 17-2-2 of the Winchester Zoning Ordinance for the property located at 1905 Henry Avenue (Map Number 231-04-N-9 - > <01), zoned Medium Density Residential (MR) district, with the following conditions:
 - a. All previous variances for this property are hereby null and void.
 - b. The applicant must provide all required parking by a combination of parking provided both on-site as well as through off-street parking agreements pursuant to Section 18-6-3.1 and 18-6-3.7.
 - c. A site plan be submitted to and approved by the Planning Director to reflect the change in use and document the off-street parking requirements being met.

- d. The variance is limited to permitted by-right or conditional uses that will not generate a parking requirement in excess of 18 spaces.

This variance is approved because:

- a. *The strict application of this Ordinance would produce a clearly demonstrable hardship.*
- b. *That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.*
- c. *That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.*

- 2. **MOVE**, that the Board of Zoning Appeals **deny** a variance to Saint Marina Coptic Orthodox Church for a variance pertaining to enlargement of non-conforming structures pursuant to Section 17-2-2 of the Winchester Zoning Ordinance for the property located at 1905 Henry Avenue (Map Number 231-04-N-9 - > <01), zoned Medium Density Residential (MR) district, for the following reasons:

- a. The strict application of this Ordinance would not produce a clearly demonstrable hardship.
- b. (List any additional reasons)



Aaron M. Grisdale, CZA
Director of Zoning and Inspections



CITY OF WINCHESTER, VIRGINIA

CASE #: 15-145
FEE AM'T: \$575.00
DATE PAID: 03-18-15

Rouss City Hall
15 North Cameron Street
Winchester, VA 22601
540-667-1815
TDD 540-722-0782

APPLICATION FOR BOARD OF ZONING APPEALS

(rev 4/15/08)

Please print or type all information

Saint Marina Coptic Orthodox Church
Applicant

540 327 7390

Telephone

408 Dunlap Drive

Street Address

szkaiser md @ hotmail.com

E-mail address

Berryville

City

VA

State

22611

Zip

OWNER'S SIGNATURE (use reverse to list additional owners)

Ty brooke LC
Owner Name (as appears in Land Records)

540-877-1407

Telephone

115 Grannies Lane

Street Address

crenner @ comcast.net

E-mail address

Winchester

City

VA

State

22601

Zip

REQUEST TYPE CODE - Please mark type of request and complete information

KEY: V = Variance; AM = Administrative Modification; I = Interpretation

REQUEST TYPE	ORDINANCE SECTION	PERTAINING TO:
<u>V</u>	<u>17-2-2</u>	<u>Enlargement (Nonconformity)</u>

APPLICATION FEE: \$500 for 1st code section; \$100 for each additional code section

PROPERTY LOCATION
Current Street Address(es) 1905 Henry Ave Winchester VA Zoning NR

Tax Map Identification - (sections, blocks, lots) 231-04-N-9 - > 501

REQUIRED MATERIALS LIST

- ☒ 1 copy of application (this form completed)
- ☒ Letter explaining request and grounds for request
- ☒ Fee (check made payable to the Treasurer, City of Winchester)
- ☒ 7 Copies of plans/or drawings
- ☒ List of adjacent property owners (public hearing items only). List must provide name and mailing address as appears in Land Records for owners of all properties within 300 feet of any portion of the subject site. (Staff Provide) Pd - \$50.00 - Sign
- ☐ Disclosure of Real Parties in Interest (list all equitable owners) Pd - \$25.00 - Labels

All public hearing materials must be submitted at one time by 5:00 PM on the deadline date for the next regular meeting in order to be placed on the agenda. Only complete applications, which include the above materials, will be accepted.

I/we hereby certify that the above information is complete and correct and that public notification will be properly posted on the site not later than 14 days before the public hearing (if applicable) and that all delinquent real estate taxes have been paid per Section 23-9.

APPLICANT'S SIGNATURE

DATE 3/17/2015

March 26, 2015

**City of Winchester, Virginia
Rouss City Hall
15 North Cameron Street
Winchester, VA 22601**

Dear Board Member,

In the regards to the conditional use permit at 1905 Henry Avenue for the St. Marina Coptic Church of Winchester Virginia. As the current owners of this property which has been vacant for almost two years, after reviewing other interest in the property this is the first potential occupant that I feel would be best suited for this location. Given the dynamics of the community I feel a church would be very well suited for this location. I am in total support of St. Marina Coptic Church of Winchester Virginia.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chester A. Renner', with a stylized, cursive script.

Chester A. Renner



**Subject
Property**

BELLVIEW AVENUE

HENRY AVENUE

**Additional
Parking**

**Additional
Parking**

**SUBJECT
PROPERTY**



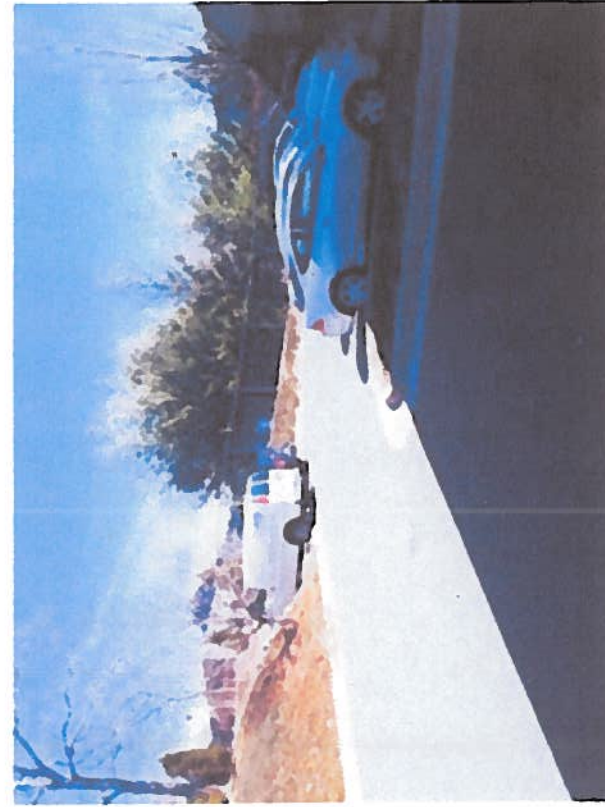
**STREET
VIEW**



**ADDITIONAL
PARKING**



**ADDITIONAL
PARKING**





**WINCHESTER BOARD OF ZONING APPEALS
STAFF REPORT AND RECOMMENDATION**

ISSUE/BACKGROUND

Case: BZA-15-150

Applicant: Milam Landscapes LLC

Location: 607 North Cameron Street

Zoning: Commercial Industrial (CM-1) District

Future Land Use: Contractor Equipment and Storage Yard.

Legal Notice: The request for variance was advertised in the *Winchester Star* on March 25, 2015, and April 1, 2015. The property was required to be posted with a public hearing sign and notices were mailed to property owners within 300' of the subject property.

Applicant's Request: Request of Milam Landscapes, LLC, for a variance pertaining to minimum lot area, minimum lot width, and fence regulations pursuant to Sections 10-3-1, 10-4-1, and 18-9-2.8 of the Winchester Zoning Ordinance for the property at 607 N Cameron Street (Map Number 154-01-A-2 - > <01) zoned Commercial Industrial (CM-1) district. The applicant is proposing to use the property for contractor and landscaping storage.

BACKGROUND

The subject property is located on the west side of North Cameron Street and is zoned Commercial Industrial (CM-1) district. The immediately surrounding properties on all sides are similarly zoned and consist of a mix of nonconforming residential uses and light industrial uses.



Exhibit A - Vicinity Map



Exhibit B - Vicinity Zoning Map

This parcel is currently unimproved and consists of a 6,630 square foot parcel with 39-feet of lot width. Both of these two dimensions are less than the CM-1 district requirements. The required lot area is 20,000 square feet and the required lot width is 39 feet. The applicant is not proposing to construct a building on site, but rather to install an opaque screening fence and utilize the property for contractor storage of equipment and supplies.

Additionally, the applicant is requesting to extend the 6-foot screening fence into the required front. The Zoning Ordinance limits the height of a fence in a required front yard to four feet in height and the fence must be at least 25 percent open. The applicant intends to have the 6-foot fence be 25-feet off the front property line and be completely opaque, instead of meeting the 35-foot setback requirement.

STAFF ANALYSIS & CONCLUSION

According to Section 20-2 of the Ordinance, the Board of Zoning Appeals is required to make three (3) specific findings in order to approve a variance request. These findings are based on evidence, testimony, and demonstration of certain criteria, which are further defined in Section 20-2-3.1 of the Ordinance.

Section 20-2-3.1: When a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size, or shape of a specific piece of property at the time of the effective date of the Ordinance, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or of the use or development of property immediately adjacent thereto, the strict application of the terms of the Ordinance would effectively prohibit or unreasonably restrict the use of the property or where the Board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of the Ordinance.

- 1. That the strict application of this Ordinance would produce a clearly demonstrable hardship.**
- 2. That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.**

3. That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variances.

Staff believes that overall the applicant is making a minimum request to enjoy reasonable use of the property. Without the variances, the property could remain unusable for the foreseeable future until either the Zoning Ordinance provisions change or the lot is assembled in with an adjoining lot. There is not a request to construct a building on-site, but rather to use the property for a low-impact use: contractor storage. The applicant has been in discussions with staff about meeting the ordinance requirements and to discuss the site plan process, should the BZA approve the requested variances.

The only area of concern with the application is the portion of the request for fencing that will exceed the maximum height and not meet the opacity limitations when located in a required front yard. While there are existing fences on nearby properties which are currently nonconforming and do not meet the current fencing requirements, the Zoning Ordinance discourages and generally does not permit an extension of a nonconformity. In this particular case, the applicant is proposing to have 10 foot of fencing in the required front yard, and plans to mitigate potential impacts by installing screening with arborvitae along the northern border of the property as well as installing two trees in the front of the parcel.

Note: Staff has not received any letters of support or opposition for this application.

POSSIBLE MOTION(S)

[Approve all of the variances]

1. **MOVE**, that the Board of Zoning Appeals **approve** variances to Milam Landscapes, LLC, pertaining to minimum lot area, minimum lot width, and fence regulations pursuant to Sections 10-3-1, 10-4-1, and 18-9-2.8 of the Winchester Zoning Ordinance for the property at 607 N Cameron Street (Map Number 154-01-A-2 - > <01) zoned Commercial Industrial (CM-1) district, with the following conditions:
 - a. A site plan be submitted to and approved by the Planning Director to reflect the change in use, and all site improvements be completed prior to occupancy of the lot.
 - b. The variance is limited to contractor storage yards as permitted in Section 10-1-13(c) of the Zoning Ordinance.

This variance is approved because:

- a. *The strict application of this Ordinance would produce a clearly demonstrable hardship.*
- b. *That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.*
- c. *That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.*

[Deny all of the variances]

2. **MOVE**, that the Board of Zoning Appeals **deny** variances to Milam Landscapes, LLC, for a variance pertaining to minimum lot area, minimum lot width, and fence regulations pursuant to Sections 10-3-1, 10-4-1, and 18-9-2.8 of the Winchester Zoning Ordinance for the property at 607 N Cameron Street (Map Number 154-01-A-2 - > <01) zoned Commercial Industrial (CM-1) district, for the following reasons:
 - a. *The strict application of this Ordinance would not produce a clearly demonstrable hardship.*
 - b. *(List any additional reasons)*

[Approve the lot area and width variances, deny the fence variance]

3. **MOVE**, that the Board of Zoning Appeals **approve** variances to Milam Landscapes, LLC, pertaining to minimum lot area and minimum lot width pursuant to Sections 10-3-1 and 10-4-1, and deny a variance pertaining to fence regulations pursuant to Section 18-9-2.8 of the Winchester Zoning Ordinance for the property at 607 N Cameron Street (Map Number 154-01-A-2 - > <01) zoned Commercial Industrial (CM-1) district, conditioned on the following
 - a. A site plan be submitted to and approved by the Planning Director to reflect the change in use, and all site improvements be completed prior to occupancy of the lot.
 - b. The variance is limited to contractor storage yards as permitted in Section 10-1-13(c) of the Zoning Ordinance.


These variances are approved because:

- a. *The strict application of this Ordinance would produce a clearly demonstrable hardship.*
- b. *That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.*

- c. *That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.*

The variance is also denied because:

- a. *The strict application of this ordinance would not produce a clearly demonstrable hardship.*
- b. *(List any other reason for denial).*

A handwritten signature in black ink, appearing to read "Aaron M. Grisdale". The signature is fluid and cursive, with the first name "Aaron" and last name "Grisdale" clearly legible.

Aaron M. Grisdale, CZA
Director of Zoning and Inspections



CASE #: BZA-15-150
FEE AM'T: 775.00
DATE PAID: 3/19/15

Rouss City Hall
15 North Cameron Street
Winchester, VA 22601
540-667-1815
TDD 540-722-0782

APPLICATION FOR BOARD OF ZONING APPEALS

Please print or type all information

540 - 974-3523

540 - 722-3004

Telephone

mmmilan7186mail-com

E-mail address

Milam Landscapes LLC

Applicant

626 N Loudoun St

Street Address

Winchester, Va 22601

City

State

Zip

Michael Milan
OWNER'S SIGNATURE (use reverse to list additional owners)

Williamag LLC Michael Milan
Owner Name (as appears in Land Records)

540-974-3523

Telephone

607 N CAMERON ST

Street Address

Winchester,

City

Va 22601

State

Zip

REQUEST TYPE CODE - Please mark type of request and complete information

KEY: V = Variance; AM = Administrative Modification; I = Interpretation

REQUEST TYPE

ORDINANCE SECTION

PERTAINING TO:

☒ V

10-3-1

MINIMUM LOT AREA

☒ V

10-4-1

MINIMUM LOT WIDTH

☒ V

18-9-2.8

FENCE REGULATIONS

APPLICATION FEE: \$500 for 1st code section; \$100 for each additional code section

Public hearing sign deposit fee: \$50

\$775.00

PROPERTY LOCATION

Current Street Address(es) 607 N CAMERON ST Winchester, Va 22601 Zoning CM-1

Tax Map Identification - (sections, blocks, lots) 154-01-A-2-01

REQUIRED MATERIALS LIST

- ☐ 1 copy of application (this form completed)
- ☐ 10 copies of letter explaining request and grounds for request
- ☐ 10 Copies of plans/or drawings, and surveys
- ☐ Fee (check made payable to the Treasurer, City of Winchester)
- ☐ List of adjacent property owners (public hearing items only). List must provide name and mailing address as appears in Land Records for owners of all properties within 300 feet of any portion of the subject site. If provided by staff, there is a \$25 fee.
- ☐ Disclosure of Real Parties in Interest (list all equitable owners)
- ☒ Public Hearing Sign Deposit Fee - \$50 (refundable upon return of sign)

All public hearing materials must be submitted at one time by 5:00 PM on the deadline date for the next regular meeting in order to be placed on the agenda. Only complete applications, which include the above materials, will be accepted.

I/we hereby certify that the above information is complete and correct and that public notification will be properly posted on the site not later than 14 days before the public hearing (if applicable) and that all delinquent real estate taxes have been paid per Section 23-9.

APPLICANT'S SIGNATURE

DATE

3/18/15

(rev 6/2012)

Chris Oldham, Landscape Architect
Milam Landscapes & Design, LLC
626 N. Loudoun St.
Winchester, VA 22601
19 March 2015

Mr. Tim Youmans, Planning Director
Department of Planning & Zoning
City of Winchester
15 North Cameron St.
Winchester, VA 22601

Mr. Youmans:

Through an initial meeting with Mike Milam and Aaron Grisdale, Director of Zoning & Inspections and a follow-up meeting with you, Kelly Henshaw, City Engineer, Aaron, and Mike, we respectfully request the following variances and waivers for the Outdoor Storage Yard for Milam Landscapes & Design, LLC.

VARIANCES:

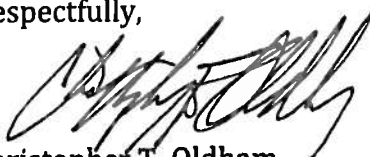
1. Requested per Section 10-3-1 of the Zoning Ordinance, the minimum lot area in CM-1 is 20,000 sf/ building. There is no structure onsite, but the lot ae is 6630 sf.
2. Requested per Section 10-4-1 of the Zoning Ordinance, the minimum lot width in CM-1 is 125'. The existing lot width is 39'.
3. Requested per Section 10-5-1 of the Zoning Ordinance, the setback regulation for a structure in CM-1 is 35'. A request for 25' is proposed for approval.

WAIVERS:

1. Requested per Section 18-6-3.5 & 3.5.a. Of the Zoning Ordinance, the required pavement for a driveway surface is a minimum of 2" of compacted bituminous concrete on a suitable base. The owner is requesting a waiver to allow for a gravel access lane of 12' wide for the aid of less run-off from the site. Upon soil excavation, the gravel will be laid to a depth of 6" uniformly.
2. Required per Section 18-6-2.3 Of the Zoning Ordinance, a waiver of curbing for off-street storage is requested. There will be no storage of company vehicles onsite and only periodic storage of a Bobcat (on gravel and within the fenceline). In addition, existing paving, other than a 5' onsite apron, will be gravel, to keep impacts as low as possible.

Thank you for your time and consideration of these requests.

Respectfully,



Christopher T. Oldham